

July 9, 2014

**Appeal
CC Docket No. 02-6**

Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20554

To Whom It May Concern:

We are filing an Appeal of an Administrator's Decision on behalf of the Wilson School District #7 for Funding Year 2011.

Billed Entity: Wilson School District #7
Billed Entity Number (BEN): 142898
Form 471 Application Number: 771668
FRN: 2095823
Administrator's Decision on Appeal Date: May 29, 2014

Appeal Request filed by:
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Ernest N. Nicely, Partner
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Reason for Denial of Funding Request:

"After multiple requests for documentation and application review, it has been determined that this funding commitment must be rescinded in full. The price of eligible products and services was not the primary factor in the vendor selection process. This determination was based on the bid evaluation sheets provided by the applicant, which indicated that cost of the Internet Service Provider would be weighed at 20% and the E-Rate SPIN factor would also be weighted at 20%. FCC rules require that applicants select the most cost-effective product and/or service offering with price being the primary factor in the vendor selection process. Applicants may take other factors into consideration, but in selecting the winning bid, price must be given more weight than any other single factor. Ineligible products and services may not be factored into the cost-effective evaluation. Since price was not the primary factor in the vendor selection process, the commitment has been rescinded in full and USAC will seek recovery of any improperly disbursed funds from the applicant."

Basis of Appeal:

The above referenced Funding Request is for one of two services specified by the applicant on an RFP. The RFP clearly states that the applicant would make a "single award only" for both services. The cost of eligible services for both of these services totals 50% of the evaluation. The next highest factor is the service provider's SPIN Change Experience at 20%; as shown by the attached evaluation matrix. The applicant clearly is in compliance with FCC Rules that require price to be the primary factor in the vendor selection process.

Background:

The applicant published RFP WSD-102 E-Rate POTS and ISP 2011-2012 as referenced by a properly filed establishing FCC Form 470. Page 16, Special Terms and Conditions, Item 9 of this RFP states "MULTIPLE AWARD: The proposal will be awarded to only one respondent." Page 18, Scope of Services of this RFP specifies that telephone services (POTS) and Internet services are required; and further itemizes the requirements for each of these services. In the evaluation process, the applicant considered that the cost of eligible services for both of these services would be 50% of the evaluation. The cost for the two services was sub-divided into two parts: 30% for the POTS service and 20% for the Internet service. Mathematically, this formula is equivalent to assigning a 50% weight to the total cost of the two services. By subdividing the evaluation of price into two components, the applicant did not alter the fact that "Price of eligible services" was 50% of the evaluation; and further was the highest evaluation factor used.

Corrective Measure:

The applicant maintains that the procurement process was a fair and open process, and that the evaluation process used was compliant with FCC Rules; and therefore that the funds were not improperly disbursed, the funding request should not be rescinded in full or in part, and that the USAC should not seek recovery of any funds from the applicant.

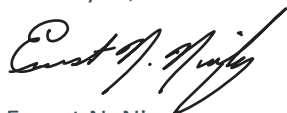
Supporting Documentation:

- ◆ RFP WSD-102 E-Rate POTS and ISP 2011-2012
- ◆ The applicant evaluation matrices and notes used to determine award

Additional Supporting Statement:

The cost of eligible services was 50% of the evaluation criteria. The next highest evaluation criteria was 20%. The sub-division of the cost of the two services specified for detailed analysis does not alter the evaluation allocation; $50\% \text{ of } X + Y = 30\% \text{ of } X + 20\% \text{ of } Y$. The Administrator's review only considered the sub-divided value assigned to the cost of the Internet services and not the total of both services.

Thank you,



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